

# **Manual for Contract Administration**



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**Contract Administration**  
**(802) 828-0289**

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## **I. General Provisions**

This manual describes the policies and procedures for the administration of contracts with organizations and individuals outside the Department of Education. The state requirements for contract administration are contained in the Agency of Administration Bulletin 3.5 “Contracting Procedures” which is included as Appendix F to this manual.

### **1. Policy:**

- a. It is the policy of the Vermont Department of Education to obtain high quality services and materials in a cost effective manner.
- b. The department recognizes the important contribution and vital impact which small businesses have on the state’s economy. In this regard, the department prescribes to a free and open bidding process that affords all businesses equal access and opportunity to compete for department contracts for goods and services. The department also recognizes the existence of businesses owned by minorities and women and strives to make a good-faith effort to encourage these firms to compete for department contracts.
- c. Employees with a conflict of interest should not be permitted to control or influence the award of contracts. Additionally, every effort should be made to avoid the *appearance* of a conflict of interest in the contracting process.
- d. Personal services should be obtained from state employees rather than contractors wherever possible to perform the continuing work of government.
- e. No work of any kind can be performed by a prospective contractor until a contract has completed all phases of approval, including 1) the final original signature on the contract by both the contractor and the department Chief Financial Officer and 2) the receipt of the required insurance certifications.

### **2. Definitions:**

- a. “Contract” means any legally enforceable agreement between a department or agency and another legal entity to provide services and/or products. The term “contract” includes all such agreements whether or not they are characterized as a “contract” “agreement,” “miscellaneous agreement,” “letter of contract,” “purchase order,” or other similar term.
- b. “Products” shall be broadly interpreted and includes equipment, materials, information technology hardware or software, supplies, printing, and other commodities.
- c. “Services” shall be broadly interpreted and include personal and professional services of an individual or of persons working for a business enterprise, construction services, design and engineering services, information technology services, real estate services, and maintenance of equipment.

**3. Contract Administration:** The Commissioner will designate the Contract Administrator for the department. The Contract Administrator will be responsible for:

- a. the preparation and maintenance of this manual;
- b. arranging for training for department personnel in the preparation, approval, and management of contracts; and
- c. tracking contracts through the approval process.

## II. Contract Development

1. **Specifications:** All efforts should be made to clearly define the objectives of the contract as early as possible. The timely creation of detailed written specifications will assist in all phases of contract development, approval, and execution.

### 2. **Appropriate Legal Instrument** (Grant – Contract – Employment)

The decision as to whether the appropriate instrument to carry out the objectives should be a grant, a contract, or an employment arrangement depends largely on the beneficiary of the activity and on the degree of supervision.

a. Grants are appropriate when:

- (1) the principal purpose is to support or stimulate a quasi-public activity which benefits the general public or individuals or groups outside the department and
- (2) the department retains very little control over the grantee's performance.

b. Contracts are appropriate when:

- (1) the activity is one which the department is responsible for performing; and
- (2) the department will not exercise supervision over the daily activities of the contractor; and
- (3) the services are not usually performed by the department; and
- (4) the contractor customarily engages in an independently established trade, occupation, profession, or business.

c. While there is rarely one single factor which determines whether a grant or contract is more appropriate, Appendix A contains a checklist of many of the characteristics of a grant vs. a contract.

d. Employment (permanent, limited service, or temporary) should be used when:

- (1) the activity is one which the department is responsible for performing, and
- (2) the department will exercise supervision over the employee.

e. While there is rarely one single factor which determines whether a contract or employment arrangement is more appropriate, Appendix B contains a list of many of the characteristics of a contract vs. an employment arrangement.

### 3. Information Technology Contracts:

- a. If a proposed contract contains any Information Technology content, the department Director of Information Technology must be contacted prior to issuing an RFP to review the portions of the contract requiring IT resources.
- b. The state Chief Information Officer must review any RFP for information technology or telecommunications prior to its posting if the expected value of the contract will exceed \$10,000.
- c. The Chief Information Officer must review and approve all information technology and telecommunications contracts with a cost of \$150,000 or more.

4. **Marketing Contracts:** For the purpose of this manual, a marketing contract includes advertising (print, radio, TV, and web/internet, but not to include recruiting); collaterals (brochures, fact sheets, folders, etc.); website design (not to include technical components); trade shows and events; direct mail campaigns, and sponsorships. Any RFP and any contract for Marketing Contracts must be reviewed by the department Information Officer.

- a. Any marketing contract with a value in excess of \$15,000 requires the prior approval of the State Agency of Commerce and Community Development's Chief Marketing Officer.
- b. Any marketing contracts valued at \$15,000 or less, must comply with the applicable statewide marketing guidelines, policies, and standards issued by the Chief Marketing Officer.

5. **Auditing and Accounting Contracts:** The State Auditor of Accounts Office must be contacted before any request for proposal is announced for accounting or auditing services. The State Auditor must approve any RFP for accounting or auditing services, but the resultant contract does not require the approval of the State Auditor of Accounts.

### III. Contractor Selection

The selection process required in choosing a vendor to perform the contract generally depends on the size of the contract.

1. **Contracts \$15,000 and under** do not require the full formal bidding process, however, attempts should be made to solicit multiple contractors. As a minimum, a memo must be prepared and placed in the official contract file which includes:

- a. a narrative describing how the contractor was selected;
- b. description of the qualifications of the contractor stating that the services or products to be provided are of high quality; and
- c. a description of the prices charged by the vendor and an explanation as to why such charges are both cost effective and reasonable.

2. **Contracts greater than \$15,000 but not more than \$100,000.** The department may enter into a contract over \$15,000 but not more than \$100,000 following either a formal bid or simplified bid process. The "simplified bid process" is as follows:

- a. The department must develop a written specific and detailed scope of services for the service or product desired and a written request for a proposal and price quotation.
- b. The scope of services and the request for proposal and price quotations must be mailed in a timely manner to at least three potential bidders. This notification may be accomplished via Email. If the department is unsure whether the contract will fall below the \$100,000 threshold, in order to avoid re-bidding the work, the use of a formal bid process is recommended.
- c. The request for proposal and price quotation must be posted on the State's "Vermont Business Registry and Bid System" (<http://www.vermontbidsystem.com/>) for at least two weeks prior to initiating a selection process. The Contracts Administrator will upload the RFP to the State website.
- d. **Documentation:** Documentation which must be placed in the official contract file includes:
  - 1) a list of the three (or more) vendors who received a written solicitation,
  - 2) a copy of the Vermont Bid Registry web posting (the Contracts Administrator will supply this for the file),
  - 3) a summary of all bidders and bids received from any source (including prices quoted),
  - 4) the rationale for selecting the successful bidder. When other than the lowest bid is accepted, there must be documentation concerning the quality of services, products or

other relevant considerations offered by a higher priced vendor which justify the award of the contract to the higher priced vendor, and

5) a copy of the winning bid.

**3. Contracts greater than \$100,000.** The department may enter into a contract greater than \$100,000 only after adherence to the “formal” bid process in compliance with the provisions of Bulletin 3.5. The formal bid process is as follows:

**A. Bid Documents (“Requests for Proposals”)**

Additional guidelines for the creation and issuance of Requests for Proposals (RFPs), including a sample RFP template, are available at <http://www.bgs.state.vt.us/pca/index.html>. The actual document is updated frequently to reflect changes in state law. The most current version can always be found at [http://www.bgs.state.vt.us/PCA/pdf/rfp\\_shell.doc](http://www.bgs.state.vt.us/PCA/pdf/rfp_shell.doc).

**a. Cover page:** An RFP package should include a cover page that includes the following:

1. Name and address of contact person
2. Due date, time, and location of responses
3. Notification of the time and location for any scheduled bidders’ conference, including a statement as to whether attendance is a condition of selection
4. Any other special requirements of the RFP process

**b. Introduction:** The RFP itself should explain its purpose and the nature of the services that are sought, for example: “The purpose of this RFP is to obtain from independent management consulting firms proposals to perform a management study of the Division of Bulletin Creation.”

**c. Brief description of the agency:** The RFP should provide needed general information such as the type of government unit, the agency’s statutory authority, budget size, number of employees, population served, and its mission or purpose. For any associated governmental units, explain their involvement or relationship to the agency organization. Briefly explain the mission or purpose of the organization. It is usually efficient to supply information from existing documents as an attachment to the RFP. Also describe any recently published documents that may contribute to the scope of services such as financial audits, program reviews, or technical studies.

**d. Statement of work to be performed:** The bid documents must include a statement of work to be performed and/or products to be delivered. The purpose of this statement is to provide prospective vendors with clear and concise but thorough information regarding the requested work. At a minimum, the statement should include in detail the following: a description of the work to be performed, a schedule (including when the work is to be completed, any interim completion dates and/or deliverables), the expected outcomes and/or products, and related performance and/or quality standards. A thorough and well-structured statement



of work to be performed enhances the responsiveness of vendors during the solicitation process, promotes the reliability and comparability of proposals, and minimizes the need for contract negotiations and subsequent contract amendments.

**e. Context for the work and management structure:** The bid documents should provide the vendor with a brief overview of the recent history leading to the agency's decision to seek a contractor. This overview will provide vendors with a better understanding of the purpose and context of the work. The bid document should include a statement about the management structure. A description in *general* terms of how the contract will be monitored by the contracting agency should be included along with a statement that a *specific* monitoring process will be defined in the contract with the selected bidder. The goal is for bidders to understand that the State is going to monitor their activities and performance under a contract in order to prevent problems or to detect them early, to determine any need for technical assistance, and to ensure that the contract terms are met and that State expenditures are appropriate, effective, and efficient.

**f. Bid and contract requirements:** Bid documents should clearly explain to bidders the procedural and substantive requirements of the bidding process. For example, the date, time, and address to which bids must be delivered should be explicitly stated. In addition, this section should include information regarding any on-location views of the work area, any pre-bid informational conferences, and any special requirements for submissions with the bid such as bid bonds, qualification profiles, resumes of key personnel performing the work, etc.

The bid documents should describe the key elements of the contract to be signed with the vendor winning the bid. The recommended method of meeting this requirement is to attach to the bid documents a copy of the basic contract documents which the selected vendor will be expected to execute. Each bid document must include a copy of Attachment C: Standard State Contract Provisions or its equivalent as approved by the Attorney General.

**g. Price quotation form:** The bid documents, except for those using a Qualifications-Based Selection process, should include a price quotation form. The form should explicitly allow for price quotations for the core services or products requested and for each incremental phase of a project if relevant. In any case, when contract extensions are contemplated, the quotation form should explicitly provide for a price quotation applicable to each such extension. Additionally, the form should allow for separate price quotations for optional services or products that an agency may consider adding to or deleting from the basic bid.

**h. Basis for selection:** The bid documents should clearly explain the selection criteria to be used by the agency. If certain factors in the selection process are relatively more important than others, the degree of such relative importance should be clearly stated and, if possible, quantitatively profiled.

## B. Public Notice Regarding the Standard Bid

The opportunity to bid for the proposed work must be broadly publicized. At minimum, such solicitation shall include posting on the Electronic Bulletin Board (EBB), which is operated by the Agency of Commerce and Community Development as part of the Vermont Business Assistance Network (VBAN). Current instructions for posting on the EBB can be found at the following link: <http://www.vermontbidsystem.com>.

Other methods of solicitation may include advertising in newspapers, direct mailings to potential vendors, direct mailings to vendors on a prequalified list, and/or publication in trade journals. It is important for an agency to maintain a list of those requesting bid documents. The time between the initial public notice and the opening of bids should be at least two weeks. For relatively complex work, additional time should be permitted to allow potential vendors a reasonable opportunity to obtain the documents and prepare a responsive bid.

## C. Contractor Selection and Documentation

**a. Selection:** The bid most responsive to the selection criteria established in the bid documents should be accepted. When appropriate, a supervisor may establish a contract selection committee to review the bids and make a written recommendation. At minimum, the agency shall post public notification of its decision on the EBB.

**b. Documentation:** A complete copy of the bid documents, vendors solicited, price quotations, bids received, and any written selection justifications must be placed in the contract file. For cost-based bids, when other than the lowest bid is accepted, there must be documentation concerning the quality of services, products, or other relevant considerations offered by a higher priced vendor that justify the award of the contract to the higher priced vendor. For qualifications-based selection processes, documentation of the basis for ranking each bidder's qualifications must be placed in the contract file.

**c. Apparent conflict of interest:** If a reasonable person might conclude that a contractor was selected for improper reasons, the supervisor should disclose that fact in writing to the Attorney General and the Secretary and document the reasons why selecting the desired contractor is still in the best interests of the State.

## D. Pre-Bid (Bidders') Conferences and Adjustments to Bid Documents

For large or complex work, it is recommended that the agency hold a pre-bid conference where agency staff can review with potential vendors the scope of services for the work and other content of the bid documents. Any change to the interpretation of the bid documents resulting from a pre-bid conference, or from any other information upon which the agency intends bidders to rely, such as responses to bidders' questions, should be broadly publicized, including at minimum a notice on the Electronic Bulletin Board.

## E. The Bid Opening

A public bid opening and reading of bids should be the norm and is required for contracts over \$100,000. Two staff members from the agency administering the bid process should be in attendance at the bid opening. Bids that have not been received prior to the established time for the receipt of bids shall be returned unopened to the bidder. With the approval of the Attorney General, the State agency administering the bid process may waive technical non-compliance when doing so is in the best interest of the State. Such waivers must be fully documented and included in the contract file.

**4. Sole-Source Contracts.** Every reasonable effort should be taken to promote a competitive solicitation process when selecting a contractor. However, in extraordinary circumstances, negotiating with only one contractor may be appropriate. Examples of when a sole-source contract might be appropriate include when time is critical for performance of the required services (for example - emergency repairs), and/or when only one contractor is capable of providing the needed service or product.

a. When contemplating any sole-source contract valued at over \$5,000, approval from the Chief Financial Officer must be obtained before contacting any potential bidders or drafting the contract.

b. For contracts with a value of over \$15,000, the department must forward to the Secretary of Administration, for approval, a notice of intent to execute the sole-source contract and the justification for the same. A cover letter containing the justification must be addressed to the Secretary of Administration from the Commissioner of Education and a copy of the proposed contract must be attached. In other than emergency situations, the request for approval must be forwarded to the Secretary of Administration at least two weeks prior to the planned execution of the contract. If, by ten business days after receipt by the Secretary, the Secretary does not object, the contract may be executed.

c. For sole-source contracts having a value of more than \$100,000, the process required in section b. above must be followed; however, the request must be forwarded to the Secretary at least four weeks prior to the planned execution of the contract and the Secretary must approve the contract prior to its execution.

**5. Special Approvals.** Two special situations require prior approval before the bid documents can be released:

a. Any contracts for accounting or auditing services require the prior approval of the Vermont State Auditor of Accounts before the RFP is drafted.

b. Any contracts over \$10,000 for information technology services require the prior approval of the Vermont State Department of Innovation and Information (DII) before the RFP is drafted.

## **6. Additional Assistance**

- a. The department human resources office is available to assist in the publication of notices in newspapers or trade journals.
- b. The contracts administrator can assist in the publishing of bids on the State's "Vermont Business Registry and Bid System" (<http://www.vermontbidsystem.com>).
- c. The state purchasing office is available to assist in the preparation of the RFP for any contract but generally is only requested to help with contracts over \$ 100,000.

## IV. Drafting the Contract

The standard contract format should be used on all contracts. A copy of the standard contract format is included as Appendix C to this manual. An electronic version of the standard contract format is available on the department internal web.

The contract includes five sections:

1. Main body of the contract
2. Attachment A – “Specification of Work to be Performed”
3. Attachment B – “Payment Provisions”
4. Attachment C – “Customary State Contract Provisions”
5. Attachment D – “Other Contract Provisions”

### 1. Contract Body

A copy of the standard contract for the Department of Education can be found on the department internal web (<http://doeweb>) in the “Grants and Contracts Administration” section. If you save a copy of the contract master to your hard drive, *please ensure you are using the most current version of the contract.*

The fields in the main body of the contract which must be filled out are flagged with an “\*” (\*1\*, \*2\*, etc.) nomenclature. The \*1\*, \*2\*, etc. characters must be deleted and replaced with the appropriate information.

For original contracts, **bold** and underline type must NOT be used. These font types are reserved for the identification of modified language when a contract is amended.

Required Fields:

**Contract #** - For original contracts, leave the Contract # field blank. It will be filled in by the Business Office. For contract amendments, fill in the contract number from the original contract.

**\*1\*** is the legal name of the contractor

**\*2\* the contractor’s form of business** should be an individual, a sole proprietorship (an individual acting under a business name), a partnership, an unincorporated association, a corporation, a college or university, a municipality, a state, or a federal agency.

**\*3\* Contractor’s Vermont Business Account number:** Get this number from the contractor. Generally, any business with employees in Vermont (and thus withholds State Income Taxes) or which is required to pay Vermont Sales and Use Taxes or Rooms and Meals Taxes will have a number. If the contractor has a business account number, fill it in. If the contractor is NOT required to have a Business Account Number, replace the \*3\* with the phrase “not required”.

**\*4\* Subject Matter:** The subject matter is a brief description of the services to be provided. It is good practice to try to use this same description on the form AA-14.

**\*5\* Maximum Amount:** The maximum amount is the contract ceiling. For a contract which reimburses time and materials, it is important to ensure that the contract is clear that if payments to date have reached the contract ceiling and the work agreed to in the contract is not completed, the work must be completed by the contractor without additional charge.

**\*6\*, \*7\* Contract Term:** The contract term should generally not exceed two years. If you are doing an amendment which changes the end date, do not change the start date.

**Prior Approvals:** Delete the inappropriate responses to the question of whether or not approval by the Attorney General's office, the Commissioner of DII, or the Secretary of Administration is required. See Section V 2.f, g, and h of this manual for approval requirements.

**Cancellation:** Generally allow 30 days.

**\*8\*** Fill in the number of pages including the contract body and all attachments. ***Be sure to keep an eye on this entry as contract language is modified or changed to make sure the number of pages is correct.***

## 2. Specification of Work to be Performed (Attachment "A")

This is the heart of the contract. Early, clear and *specific* definition of the scope of work will make completing this section easier.

- a. It is critical to use simple declarative sentences. Directives in the contract must be framed using the terms "shall" as opposed to "will" or "may". For instance, the phrase "Contractor *shall* attend the following meetings ...." must be used instead of "The contractor *will* attend the following meetings ...." or "The contractor *should* attend the following meetings ..."
- b. Where a list of requirements is itemized, individual items should be identified by numbers and letters (not "bullets").
- c. Descriptions of the work to be performed and products to be delivered must be clear, unambiguous, complete, and specific. The end result and specific duties of the contractor and the department must be stated in a way that all the parties to the contract know precisely what is required of them. Contract clauses should be written as though a court official will have to read them five years from now and interpret what was meant.
- d. Avoid "legalese", jargon, and unidentified abbreviations. Plain English is sufficient and preferred. The term "support services" is not self-explanatory.
- e. Any deadlines must be clearly identified. In drafting the contract one should be thinking about the consequences or alternatives if the timelines are not met.

- f. Any obligations or responsibilities of the department must be spelled out.
- g. If an RFP was used in the selection process, relevant parts may be included in the contract by reference.

### 3. Payment Provisions (Attachment “B”)

a. While the main body of the contract specifies the maximum amount, Attachment B describes the payment(s) in more detail.

b. A clause must be included instructing the contractor to send all invoices to:

Vermont Department of Education  
Attn: Business Office  
120 State Street  
Montpelier, VT 05620-2501

c. A clause must be included stating “The contractor shall include the Contract #, shown in the upper left on page 1 of this contract, on all invoices.”

d. A clause must be included stating “Payment will be made upon determination by the State of satisfactory performance.”

e. The timeline for submitting invoices must be specified. It is helpful to have concrete measurable activities or dates to define invoicing timelines. In general, payments should be made only after work has been completed and delivered.

f. If a “time and materials” contract is used, a billing rate must be included. It is important to think about what will happen if the contract ceiling is reached and any critical work is not yet completed. It is the responsibility of the program manager to ensure that no work is requested from the contractor which will cause them to exceed the contract ceiling. If an amendment to the contract to increase the ceiling has been initiated, no work can be done by the contractor until the amendment has completed the entire approval process.

g. For a “time and materials” type contract, any reimbursable expenses must be specified. If mileage reimbursements are included, the phrase “reimbursable at the state rate of XX cents per mile” must be included (use the current state rate for state employees). If claims for reimbursable expenses, other than mileage, are included (meals, lodging, etc.) , the contract must specify what those expenses are and state that receipts for these expenses must accompany any request for payment.

h. Consideration should be given to including provisions for retainage and/or for penalties if the required services are not delivered in compliance with the contract timelines and specifications.

#### **4. Customary State Contract Provisions (Attachment “C”)**

This attachment must be included verbatim in every contract. The provisions are listed in Appendix C of this manual. These provisions cannot be changed without written permission from the office of the Attorney General.

Note that section 6 requires that the contractor must provide a certificate of insurance to show that the required coverages are in effect *before commencing work on the contract*.

#### **5. Other Contract Provisions (Attachment “D”)**

This attachment contains contract provisions specific to the Department of Education. They are contained in Appendix C of this manual and must be incorporated into every contract. Any further provisions unique to this contract must be included here also.



## V. Contract Approval

The approvals required for a contract generally depend on the size of the contract. The department approval process is sequential.

**1. The contract is submitted to the department contracts administrator.** The documents required are:

- a. Department Approval and Routing Form SDE 14 (the old "pink" form). The accounting codes and the director's signature must be included on the form. Note: The name and address in the "Vendor Info" block in the upper right will be used when the contract is sent to the vendor for their signature.
- b. State Form AA-14 "Contract Approval Request" Instructions for completing the Form AA-14 are included as Appendix E of this manual. An electronic (MS Word) version of this form is available on the department internal website.
- c. Printed draft of the contract. Requestors must also forward an *electronic* copy of the draft contract to the contracts administrator.
- d. Contractor selection documentation. This is required for all contracts except sole source contracts. Please see Section III of this manual for required documentation:
  - contracts < \$15,000                      Subsection 1 (page 5)
  - contracts \$15,000 – \$100,000      Subsection 2 (page 5)
  - contracts > \$100,000                Subsection 3 C. b. (page 9)
- e. Sole source contracts require a memo from the commissioner to the Secretary of Administration requesting approval to execute the sole source contract. It must include a clear and simple explanation of the reason the sole source solicitation is appropriate.

**2. The contract package will be routed by the department contracts administrator for approval, in turn, to:**

- a. Human Resources – for verification that contract services cannot be performed by an employee in the department and that the personal services being requested do not constitute an employment situation.
- b. Business Office – for verification that payment provisions are clear and appropriate, that the funding codes are correct, and that funds are available to pay for the contract.
- c. IT Office – required for any contracts proposing the development or purchase of computer systems software or hardware.
- d. Communications Office – required for any Marketing contract.
- e. Legal Office – verification that the general form of the contract is valid and that the contract language is declarative, clear, and unambiguous.

f. Chief Financial Officer – final department approval before forwarding outside the department (to the contractor, the AG, or Secretary of Administration).

g. Attorney General - approval by the Attorney General's office is required for all original contracts over \$ 10,000 and any amendments meeting the "significant change" definition outlined in Section VII 4 of this manual.

h. The Commissioner of the Department of Information and Innovation – approval by the Commissioner of the Department of Information and Innovation is required for all information technology and telecommunications contracts with a cost of \$ 150,000 or more.

i. Secretary of Administration - approval by the Secretary of Administration is required for sole-source contracts over \$15,000, any contract over \$ 250,000, any contracts with a duration in excess of two years, and any amendments meeting the "significant change" definition outlined in Section VII 4 of this manual.

3. The approved contract will be forwarded in two copies to the contractor who must sign and return both copies along with the Insurance certification required in Appendix C Section 6 of the contract.

4. The Chief Financial Officer will sign the two original copies of the contract. One copy will be returned to the contractor and one will be placed in the official contract file thus providing both parties with copies containing original signatures.

5. **Timelines.** For planning purposes, the approximate timelines for the approval cycle elements, assuming no changes or major issues arise, are as follows:

- Simplified bid posting – two weeks
- Drafting the contract – two weeks
- Internal approval cycle – one week
- Attorney General approval – one week
- Secretary of Administration approval – two weeks
- Vendor returns signed copies ???

In planning the total cycle approval time required before the contract start date, be sure to allow time for the approved contract to be sent to the contractor, signed, and returned. Depending on the efficiency of the vendor, this may take some time.

Much cycle time can be saved if a rough draft of the contract is prepared during the waiting period while bids are being solicited.

## **VI. Contract Execution**

1. The official contract folder will be prepared by the contracts administrator and will contain four sections:

- a. Contract payment records
- b. Original signed contract (and any amendments)
- c. Contractor selection information
- d. Other local documents (approval routing, AA-14, debarment certificate, etc.) plus Insurance Certificates

2. The contract folder will be forwarded to the business office and retained for the life of the contract.

3. Payments will be processed and recorded upon submission of invoices in accordance with the payment provisions in the contract. Approval by the director or assistant director verifying that the contract services have been properly completed will be required before payments can be made.

4. The contract file will be retained for a period of three years following the completion of the contract. If any litigation, claim, negotiation, audit, or performance questions arise during or following the performance of the contract, the file must be kept until the final resolution of the issue or the end of the regular three-year period, whichever is later.

## VII. Contract Amendments

Amendments should be kept to a minimum.

1. **Numbering:** Amendments shall be sequentially numbered “001”, “002” etc., and will go through the same approval process as the original contract.

2. **Contract Format:** In amending a contract, the drafter should start with an electronic copy of the original contract. All new language should be underlined and all deleted language should be stricken through. A phrase must be included at the beginning of the contract (directly below the line which starts with the contract number) stating:

“This contract is being amended. Language that has been added is underlined and language that has been deleted is stricken through.”

For subsequent amendments, the underlining from the previous version should be removed. If the original contract was created using the older template which contained underlining, then bold face type should be used to show added language instead of underlining.

The amended contract, when read with its changes incorporated, must cover the entire scope and span of the contract. Do not delete work which has already been accomplished. Do not change the start date.

3. **Approval:** The approval process is the same as that for an original contract.

a. Documents required for approval are:

- (1) the Form SDE-14
- (2) the Form AA -14, and
- (3) the amended version of the contract.
- (4) If the amendment will require approval from the Attorney General or the Secretary of Administration, a cover memo must be included explaining clearly the reason the amendment is being requested. This memo should be written from the Commissioner to the Attorney General and/or the Secretary of Administration. It is important that the memo be drafted so it can be understood by someone not familiar with DOE acronyms, history, jargon, programs, etc.

b. Any amendment which causes the total value of the contract to cross one of the approval boundaries (\$ 15,000, \$ 250,000, etc.) will require approval appropriate for the higher level as though it were a new contract.

c. Within the department, amendments extending just the contract end date and/or the contract value do not require the approval of the department Human Resources or the Legal offices.

4. **Significant Changes:** Approval by **both** the Attorney General and the Secretary of Administration is **required** :

- a. if the amendment is the third or more to the contract, or
- b. if the cumulative effect of the amendment and all prior amendments increases the contract price above the following thresholds:
  - (1) \$18,750 for sole source contracts originally under \$15,000
  - (2) more than 25% for contracts of original amounts less than \$250,000
  - (3) more than 15% for contracts of original amounts \$250,000 or greater

## Appendix A

### Grant vs. Contract Decision Matrix

	Characteristics of a <i>Grant</i>	Characteristics of a <i>Contract</i>	Grant	Contract
<b>Primary Purpose</b>	<i>To assist, stimulate, support</i>	<i>To order, buy, purchase, acquire, hire, procure</i>		
<b>Scope of Services</b>	<i>Grantee identifies/ proposes the program details and activity</i>	<i>Awarding Agency defines scope of work (the deliverables)</i>		
<b>Criteria for Selection</b>	<i>Demonstrated need</i>	<i>Capability to deliver; cost</i>		
<b>Beneficiary of Service</b>	<i>Public or targeted community gets service</i>	<i>Awarding Agency gets product or service</i>		
<b>Risk</b>	<i>Best efforts</i>	<i>Performance required for payment</i>		
<b>Number of Awards</b>	<i>May be multiple awards available</i>	<i>Generally single award</i>		
<b>Performance Measurement</b>	<i>Measured against program objectives</i>	<i>Measured against delivery of service &amp; scope of work</i>		
<b>Cost Sharing</b>	<i>May be required</i>	<i>Unlikely</i>		
<b>Solicitation/ Competition</b>	<i>Announcement generally to public at large</i>	<i>Maximum free and open competition required</i>		
<b>Pricing</b>	<i>Fixed award obligation</i>	<i>Fixed price; profit allowed</i>		
<b>Termination</b>	<i>Termination for cause only</i>	<i>May be terminated at Awarding Agency convenience or cause</i>		
<b>Payment</b>	<i>Payments in advance; generally cost details reimbursed</i>	<i>Paid upon delivery; may provide progress payments</i>		
<b>Property</b>	<i>Awarding Agency retains financial interest in property purchased with grant funds</i>	<i>No property purchased—contractor assumed to provide own equipment</i>		

## Appendix B

### Contract vs. Employment

There is no one factor which conclusively demonstrates that the appropriate legal instrument for services should be a contract vs. an employment arrangement. The following 20 factors can be used to explore the elements of the arrangement which would tend to indicate an employment arrangement vs. a contract arrangement:

1. **Instructions:** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the RIGHT to require compliance with instructions.

2. **Training:** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner.

3. **Integration:** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business.

4. **Services Rendered Personally:** If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results.

5. **Hiring, Supervising and Paying Assistant:** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one worker hires, supervises, and pays the other assistants pursuant to a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status.

6. **Continuing Relationship:** A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring, although irregular, intervals.

7. **Set Hours of Work:** The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control.

8. **Full Time Required:** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor on the other hand, is free to work when and for whom he or she chooses.

**9. Doing Work on Employer's Premises:** If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required.

**10. Order or Sequence Set:** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so.

**11. Oral or Written Reports:** A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control.

**12. Payment by Hour, Week, Month:** Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor.

**13. Payment of Business and/or Traveling Expenses:** If the person or persons for whom the services are performed ordinarily pay the worker's business and/or traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities.

**14. Furnishing of Tools and Materials:** The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship.

**15. Significant Investment:** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the existence of an employer-employee relationship. Special scrutiny is required with respect to certain types of facilities, such as home offices.

**16. Realization of Profit or Loss:** A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that



the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

**17. Working for More Than One Firm at a Time:** If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. However, a worker who performs services for more than one person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.

**18. Making Service Available to General Public:** The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship.

**19. Right to Discharge:** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications.

**20. Right to Terminate:** If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship.

## Appendix C

	<p>STATE OF VERMONT STANDARD CONTRACT FOR PERSONAL SERVICES VERMONT DEPARTMENT OF EDUCATION</p>
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Contract #: \_\_\_\_\_ Amendment: # 000

1. Parties: This is a contract for personal services between the State of Vermont Department of Education (hereafter called the "State"), and \*1\* (hereinafter called the "Contractor"). Contractor's form of business organization is \*2\*. Contractor's Vermont Department of Taxes Business Account Number is \*3\*. If the Contractor does not have a Business Account Number, it is the contractor's responsibility to contact the Vermont Department of Taxes to determine if, by law, the contractor is required to have a Vermont Department of Taxes Business Account Number.
2. Subject Matter. The subject matter of this contract is personal services generally on the subject of \*4\*. Detailed services to be provided by the contractor are described in Attachment A.
3. Maximum Amount: In consideration of the services to be performed by the Contractor, the State agrees to pay the Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$ \*5\*.
4. Contract Term: The period of the Contractor's performance shall begin on \*6\*, and end on \*7\*.
5. Prior Approvals: If approval by the Attorney General's Office, the Commissioner of the Department of Information and Innovation, or the Secretary of Administration is required, (under current law, bulletins, and interpretations), neither this contract nor any amendment to it is binding until it has been approved by any or all of such persons. Approval by the Attorney General's Office is / is not required. Approval by the Commissioner of the Department of Information and Innovation is / is not required. Approval by the Secretary of Administration is / is not required.
6. Amendments: No changes, modifications, or amendments in the terms and conditions of this contract shall be effective unless reduced to writing, numbered, and signed by the duly authorized representative of the State and the Contractor.
7. Cancellation: This contract may be cancelled by either party by giving written notice at least 30 days in advance.
8. Attachments: This contract consists of \*8\* pages including the following attachments which are incorporated herein:

Attachment A - "Specifications of Work to be Performed"  
Attachment B - "Payment Provisions"  
Attachment C - "Customary State Contract Provisions"  
Attachment D - "Other Provisions"

WE THE UNDERSIGNED PARTIES AGREE TO BE BOUND BY THIS CONTRACT.

by the STATE OF VERMONT

By the CONTRACTOR

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Title \_\_\_\_\_

STATE OF VERMONT  
CONTRACT FOR PERSONAL SERVICES  
ATTACHMENT A  
SPECIFICATIONS OF WORK TO BE PERFORMED

1.

STATE OF VERMONT  
CONTRACT FOR PERSONAL SERVICES  
ATTACHMENT B  
PAYMENT PROVISIONS

1. All invoices shall be sent to:

Vermont Department of Education  
Attn: Business Office  
120 State Street  
Montpelier, VT 05620-2501

2. The contractor shall include the Contract # shown in the upper left on page 1 of this contract on all invoices.
3. Payment shall be made upon determination by the state of satisfactory performance.

STATE OF VERMONT  
CONTRACT FOR PERSONAL SERVICES  
ATTACHMENT C  
PREPRINTED CUSTOMARY PROVISIONS (July 1, 2006)

1. Entire Agreement: This contract represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. Applicable Law: This contract will be governed by the laws of the State of Vermont.
3. Appropriations: If this contract extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this contract, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of exiting appropriation authority.
4. No Employee Benefits For Contractor: The contractor understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the contract. The contractor understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the contractor, and information as to contract income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
5. Independence, Liability: The contractor will act in an independent capacity and not as officers or employees of the State. The contractor shall indemnify, defend, and hold harmless the State and its officers and employees from liability and any claims, suits, judgments, and damages arising as a result of the contractor's acts and/or omissions in the performance of this contract.
6. Insurance: Before commencing work on this contract the contractor must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the contractor to maintain current certificates of insurance on file with the state through the term of the contract.

Workers Compensation: With respect to all operations performed, the contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the contractor shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations  
Products and Completed Operations  
Personal Injury Liability  
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence  
\$1,000,000 General Aggregate  
\$1,000,000 Products/Completed Operations Aggregate  
\$ 50,000 Fire/ Legal/Liability

Automotive Liability: The contractor shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the contract. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the contractor for the contractor's operations. These are solely minimums that have been established to protect the interests of the State.

7. **Reliance by the State on Representations:** All payments by the State under this contract will be made in reliance upon the accuracy of all prior representations by the contractor, including but not limited to bills, invoices, progress reports and other proofs of work.
8. **Records Available for Audit:** The contractor will maintain all books, documents, payroll papers, accounting records and other evidence pertaining to costs incurred under this agreement and make them available at reasonable times during the period of the contract and for three years thereafter for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved. The State, by any authorized representative, shall have the right at all reasonable times to inspect or otherwise evaluate the work performed or being performed under this contract.
9. **Fair Employment Practices and Americans with Disabilities Act:** Contractor agrees to comply with the requirement of Title 21 V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Contractor shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the contractor under this contract. Contractor further agrees to include this provision in all subcontracts.
10. **Set Off:** The State may set off any sums which the Contractor owes the State against any sums due the Contractor under this contract; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
11. **Taxes Due to the State:**
  - a. Contractor understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
  - b. Contractor certifies under the pains and penalties of perjury that, as of the date the contract is signed, the Contractor is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
  - c. Contractor understands that final payment under this contract may be withheld if the Commissioner of Taxes determines that the Contractor is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
  - d. Contractor also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Contractor has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Contractor has no further legal recourse to contest the amounts due.
12. **Child Support:** (Applicable if the Contractor is a natural person, not a corporation or partnership.) Contractor states that, as of the date the contract is signed, he/she:
  - a. is not under any obligation to pay child support; or
  - b. is under such an obligation and is in good standing with respect to that obligation; or
  - c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Contractor makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the contractor is a resident of Vermont, contractor makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

13. Subcontractors: Contractor shall not assign or subcontract the performance of his agreement or any portion thereof to any other contractor without the prior written approval of the State. Contractor also agrees to include all subcontract agreements and a tax certification in accordance with paragraph 11 above.
14. No Gifts or Gratuities: Contractor shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this contract.
15. Copies: All written reports prepared under this contract will be printed using both sides of the paper.
16. Certification Regarding Debarment: Contractor certifies under pains and penalties of perjury that, as of the date that this contract is signed, neither contractor nor contractor's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs or programs supported in whole or in part by federal funds.

STATE OF VERMONT  
CONTRACT FOR PERSONAL SERVICES  
ATTACHMENT D  
OTHER CONTRACT PROVISIONS

1. Confidential Information: Any and all information, the release of which is prohibited by state or federal law or regulation or which is subject to the protection of the Family Education Rights and Privacy Act (FERPA) obtained by the contractor in the performance of this contract constitutes confidential information. The Contractor shall not use or disclose any confidential information except as specifically permitted or required by this contract or as required by law.



## Appendix D

### Agency of Administration Form AA-14

**I. CONTRACT INFORMATION:****Contract #** \_\_\_\_\_**Amendment #** \_\_\_\_\_**Agency/Department:** \_\_\_\_\_**Business Unit:** \_\_\_\_\_**Vendor No:** \_\_\_\_\_**Contractor:** \_\_\_\_\_

Address: \_\_\_\_\_

Federal ID or SS#: \_\_\_\_\_

Starting Date: \_\_\_\_\_ Ending Date: \_\_\_\_\_

Summary of contract or amendment: [Click [here](#) and type information]**II. FINANCIAL INFORMATION**

Maximum \$ payable under contract: \$ \_\_\_\_\_

Maximum units under contract: \_\_\_\_\_ If Renewal:[Prior Contract #] \_\_\_\_\_

This Amendment-\$ Change: \$ \_\_\_\_\_

Cum. Amendments- \$ Change: \$ \_\_\_\_\_ Cum % Change: \_\_\_\_\_%

Unit change: \_\_\_\_\_

Prior \$ max: \$ \_\_\_\_\_ Prior units: \_\_\_\_\_

Rate: \$ \_\_\_\_\_

Prior Rate: \$ \_\_\_\_\_

Source of Funds: **General Fund** \_\_\_\_\_%**Federal** \_\_\_\_\_% Code \_\_\_\_\_**Other Fund:** \_\_\_\_\_% Code \_\_\_\_\_

Appropriation(s) Dept Id #: \_\_\_\_\_;

\_\_\_\_\_;

**III. SUITABILITY OF PERSONAL SERVICES CONTRACT**☐ Yes ☐ No Does this contractor meet all 3 parts of the "ABC" definition of independent contractor?

(See Bulletin 3.5) If not, please indicate why this work is being arranged through a contract.

☐ Yes ☐ No Is agency liable for income tax withholding or FICA?☐ Yes ☐ No Should contractor be paid on the state payroll?**IV. PUBLIC COMPETITION:**

The agency has taken reasonable steps to control the price of the contract and to allow qualified businesses to compete for the work authorized by this contract. The agency has done this through:

☐ Standard bid or RFP☐ Simplified bid☐ Sole Sourced☐ Qualification Based Selection**V. TYPE OF CONTRACT:**☐ Personal Service☐ Construction☐ Architectural/Engineering☐ Commodity☐ Privatization\*\***\*\*Requires DHR review****VI. CONFLICT OF INTEREST:** I certify that no person able to control or influence award of this contract had a pecuniary interest in its award or performance, either personally or through a member of his or her household, family, or business:☐ Yes ☐ No Is there an "appearance" of a conflict of interest so that a reasonable person may conclude that this contractor was selected for improper reasons? (If yes, explain)**VII. PRIOR APPROVALS REQUIRED OR REQUESTED**☐ Yes ☐ No Contract must be approved by the Attorney General under 3 VSA §311(a)(10).☐ Yes ☐ No I request the Attorney General to review this contract as to form;

No, already performed by in-house AAG or counsel: \_\_\_\_\_ (Initial)

☐ Yes ☐ No Contract must be approved by the CIO/Commissioner of DII; for IT hardware/software/services and Telecommunications over \$150,000☐ Yes ☐ No Contract must be approved by the CMO; for Marketing services over \$15,000☐ Yes ☐ No Contract must be approved by the Secretary of Administration.**VIII. AGENCY/DEPARTMENT HEAD CERTIFICATION; APPROVAL***I have made reasonable inquiry as to the accuracy of the above information:*\_\_\_\_\_  
Date Agency or Department Head\_\_\_\_\_  
Date Approval by Agency Secretary (if required)\_\_\_\_\_  
Date Approval by Attorney General\_\_\_\_\_  
Date \*\*Reviewed By Comm. DHR or DHR AAG\_\_\_\_\_  
Date CIO (initial)\_\_\_\_\_  
Date CMO (initial)\_\_\_\_\_  
Date Approval by Secretary of Administration

## Appendix E

### Instructions for Completing the Form AA-14

#### I. Contract Information

**Agency/Department:** “Vermont Department of Education”

**Business Unit:** “05100”

**Federal Id or Social Security:** Obtain from the vendor. **This MUST be filled in or vendor cannot get paid.**

**Starting Date:** Starting date of the contract

**Ending Date:** Ending date of the contract (or of the amendment)

**Summary of Contract or amendment:** For original contract, brief description of the contract. For amendments, a description of the changes.

**Contract #:** Leave blank for original contracts. Will be completed by the business office. For amendments, get this number from the original contract.

**Amendment #:** Leave blank for the original contract. Use a sequential number (001, 002, etc.) for contract amendments.

**Vendor No:** Leave blank for original contracts. Will be completed by the business office. For amendments, get this number from the original contract.

#### II. Financial Information

**Maximum \$ payable under contract:** Current maximum proposed in the contract

**Maximum units under contract:** Leave all references to units blank.

**If Renewal, prior Contract #:** Leave Blank

**This Amendment - \$ Change:** Leave blank for the original contract. For amendments, enter the change from the last approved amendment.

**Cum. Amendments - \$ Change:** For the original contract, leave blank. For amendments, calculate the total cumulative change since the original contract was approved.

**Cum % Change:** Cumulative percentage change from the original contract

**Rate:** Hourly rate if one is specified in the contract. Blank if no rate is included.

**Prior rate:** Hourly rate in last approved amendment. Blank for original contracts or if no rate is included

**Source of funds:** Enter to nearest whole percentage

**Code:** Fund, Dept ID, Program, Class, and Project Grant (separated by commas or spaces)

**Appropriation Dept Id:** fill in your Dept ID

### III. Suitability of Personnel Services Contract

**ABC Test** – all three of the following conditions must be met to check “Yes”:

“A” - The department will not exercise supervision over the daily activities, times of work, or the means and methods by which the contractor provides services, either in fact or under the terms of the contract. However, the department may ensure that the contractor meets performance specification contained in the contract

“B” - The service provided is not of the kind usually provided by the department

“C” - The contractor customarily engages in an independently established trade, occupation, profession, or business. If the contractor retains the ability to engage other clients during the contract term, this normally proves the existence of an independently established business.

**Withholding of income tax or FICA** – Check NO

**Payment on state payroll** – Check NO

### IV. Public Competition

Standard Bid	over \$ 100,000
Simplified Bid	\$15,001 to \$100,000
Sole Source	

### V. Type of Contract

Generally check “Personal Service”

### VI. Conflict of Interest

It is important to remember that this included the “appearance” of a conflict of interest. You should be checking “NO” unless there is an appearance of a conflict of interest. If you check “YES” you must include an explanation. If you are unsure, you should assume there is a potential conflict and include an explanation.

## **VII. Prior Approvals Required**

***Contract must be approved by the Attorney General*** – Check YES if this is an original contract over \$ 10,000 or for any contract amendment with a significant change (see section VII 4) otherwise check NO

***Request AG to review as to form*** – Check NO

***Already performed by in-house AAG or council:*** – leave space for “initial” blank (this will be completed by the DOE legal dept)

***Contract must be approved by the CIO*** – Check YES for IT contracts over \$ 150,000 otherwise check NO

***Contract must be approved by the CMO*** – Check YES for Marketing Services over \$15,000 otherwise NO

***Contract must be approved by the Secretary of Administration*** – if this is an original sole source contract over \$15,000, or any original contract over \$ 250,000, or a contract amendment with a significant change (see section VII 4), check YES, otherwise check NO

## **VIII. Agency Head Certification**

**Leave this section blank** – this is for the CFO’s signature.

## **Appendix F**

### **Bulletin 3.5**

State Agency of Administration Bulletin 3.5 “Contracting Procedures” dated December 29, 2006 is hereby included in this manual by reference.

A copy is available on both the department internal website and on the Vermont state website.

1. The URL for the department internal Web is:

<http://doeweb>

2. The URL for the Vermont State Web site containing Bulletin 3.5 is:

<http://www.adm.state.vt.us/bulletins.htm>

## **Appendix G**

### **Changes from Version 2.00**

General: This version accompanies the issue of the first major revision to Vermont Agency of Administration Bulletin 3.5 “Contracting Procedures” in over ten years. The revision to Bulletin 3.5 is dated December 29, 2006.

#### **I. General Provisions**

Changes to the wording of Paragraph 1 to conform to state policy.

#### **II. Contract Development**

Changes to the section covering Information Technology Contracts and added new sections covering Marketing Contracts and Auditing and Accounting Contracts

#### **III. Contractor Selection**

General changes to the limits for the bidding requirements for contracts. \$10,000 to \$ 75,000 limits generally changed to \$ 15,000 to \$ 100,000. Note: the requirement to have the Attorney General review any contract over \$ 10,000 has not changed.

The text of the procedures for the “Full” bid process (for contracts over \$ 100,000) has been rewritten.

Lead time for Secretary of Administration approval of sole source contracts has been increased.

#### **IV. Drafting the contract**

Changes have been made to the instructions to accommodate changes in the new contract format.

Note: Employer EIN/Social Security number is no longer included in the signature block. It must, however, be included in the form AA-14. Contractor’s place of business is no longer required. The wording for the Vermont Business Account number has been changed.

A copy of the winning bid must be included with the vendor selection documentation.

Bolding or underline type face must not be used for an original contract. These are reserved in order to identify changes when contracts are amended.

Clarifications have been made for “Time and materials” type contracts. The current mileage rate must be included if reimbursement for mileage is authorized.

Customary state provisions changed to add debarment clause (we have therefore removed this clause from Attachment D)

## **V. Contract Approval**

General change of approval limits \$ 10,000 – \$ 75,000 to \$ 15,000 – \$ 100,000 *except no change to AG approval limits*. Added language to Human Resources assurance certification

Vendors must return their certificate of insurance along with the signed copies of the contract.

## **VI. Contract Execution**

Language added to clarify that the debarment certification form and Insurance Certificates must be included in the official contract file.

## **VII. Contract Amendments**

Clarifies that required explanatory cover memo accompanying the amendment request should be from the Commissioner to the Secretary of Administration.

The dollar thresholds which define a “significant change” has been modified plus the approval of the AG and the Secretary is now required for the third or subsequent amendment to any contract.

## **Appendix C Standard Contract**

Changes to the standard contract format to correspond to the changes in Bulletin 3.5. Note: we must start using standard contract Version 3.00 or above.

## **Appendix E Instructions for Completing the AA-14**

The Agency of Administration form AA-14 has been completely revised. The form is now available electronically (the old four part carbon form is obsolete). The instructions have been changed to match the new form.

*If you note any problems or issues with this manual or have any suggestions to make it clearer, please feel free to contact the department Contract Administrator.*